

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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SUSHOVAN HUSSAIN,

Petitioner,


-vs-

Civil Action No. 3:21-cv-01635-MEM-DB

RACHEL THOMPSON, et al.,

Respondents

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FILED
SCRANTON
NOV 16 2021
PER 
DEPUTY CLERK

MOTION TO EXPEDITE
AND MEMORANDUM IN SUPPORT

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Petitioner Sushovan Hussain ("Hussain") respectfully submits this motion to expedite adjudication of his petitions for Writ of Habeas Corpus (the "Petition") and for Temporary Restraining Order ("TRO Petition"), highlighting the recent surge of COVID-19 at Allenwood Low ("Allenwood"). Petitioner brings to the Court's attention that in one of the housing units at Allenwood, Petitioner estimates that approximately 50 new cases of COVID-19 have been diagnosed in the past several weeks. Petitioner understands that several of the infected inmates have been hospitalized and that one inmate has died. As the date of this motion, the number of "confirmed active cases" of COVID-19 reported at Allenwood is 25 and the total number of inmates who have tested positive is 309 out of 878. See <https://www.bop.gov/coronavirus>.

This surge in COVID-19 infections is not surprising coming just a few weeks after Allenwood was placed on "Level 3 - Intense Modifications", being the highest level tier for COVID-modified operations. The reason for the move to this highest tier was the significant increase in community transmission rates. See Warden Thompson memorandum to inmates August 30, 2021 and https://www.bop.gov/coronavirus/covid19_modified_operations_guide_jsp.

Petitioner posits that this demonstrates Allenwood is "experienc[ing] significant levels of infection", a factor highlighted in Attorney General Barr's April 3, 2020 memorandum as a criterion for "using home confinement, where appropriate, to move vulnerable prisoners out of these institutions". Petitioner highlights that the once-in-a-lifetime pandemic continues to expose him to the risks of illness and death while in prison. See April 2020 declarations of Drs. Goldenson and Novisky at 4:20-cv-00794-JG (Exhibit 1). "This is highly infectious and only the great influenza of 1918...is thought to have higher infectivity", see Goldenson Decl.; "prisons, by their very nature are high risk sites for the spread of infectious disease", see Novisky decl. Inside prisons it is not possible to follow medically-indicated social distancing and hygiene practices putting inmates and staff at extreme risk of infection, illness and death. See Goldenson Decl. (social distancing is effectively impossible).

Petitioner also highlights the September 2021 CDC Report (see TRO Petition Exhibit 1) that "incarcerated populations have experienced disproportionately higher rates of COVID-19 related illness and death". The CDC reported that though "the attack rate was higher among unvaccinated versus fully vaccinated persons...in this outbreak, attack rates were also higher in persons who were vaccinated >4 months before the outbreak compared with persons vaccinated more recently". Petitioner was vaccinated more than six months ago. As an asthma sufferer he is at a significantly greater risk of adverse health consequences in the event he is infected with the COVID-19 virus even though he is vaccinated.

The CARES Act and Attorney General Barr's memo directed the BOP to review "all at-risk inmates" with medical vulnerabilities, as promulgated by the CDC, for home confinement. Petitioner suffers from chronic asthma one of the medical

vulnerabilities listed by the CDC. Petitioner is 57 years old. The CDC has shown that the older people are the higher their risk of severe illness from COVID-19.

Given the seriousness and urgency of the situation, Petitioner respectfully asks the court, pursuant to its inherent power to manage its case schedule, to issue forthwith the relief requested in the Petition, and a writ of habeas corpus or, in the alternative, any other relief which the Court may deem just, appropriate and proper including the granting of temporary restraining order, preliminary injunction and permanent injunction.

Dated: November 1, 2021
White Deer, pa. 17887-1000

Respectfully submitted

/s/ Sushovan Hussain
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LEGAL
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HON. MALADY E. MANTON
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